

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORHERN DISTRICT OF OHIO
WESTERN DIVISION**

EVELYN WILLIAMS, <i>Plaintiff,</i> vs. BARTON MALOW CO., ET AL. <i>Defendants.</i>	Case No. 3:20-cv-2594 Judge James G. Carr
PLAINTIFF EVELYN WILLIAMS'S RESPONSE TO DEFENDANTS' SURREPLY REGARDING PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT	

Plaintiff Evelyn Williams respectfully submits this response to Defendants' surreply regarding her motion for leave to amend the complaint. ECF #16. This response addresses a single argument raised for the first time in the surreply: that leave to amend should be denied because the amended claims under Ohio Rev. Code § 4112.02 do not relate back for statute-of-limitations purposes under Fed. R. Civ. P. 15(c).

Based on the relevant statute of limitations, however, it is immaterial whether the added Ohio Rev. Code § 4112.02 claims relate back under Rule 15(c). Regardless of this Court's retroactivity analysis, the claims were filed within the statute of limitations.

- Because the amended claims under Ohio Rev. Code § 4112.02 arose before H.B. 352 took effect, they are subject to a six-statute of limitations.¹
- Alternatively, even under the revised version of Ohio Rev. Code Chapter 4112, Williams's claims are timely filed. As revised, the claims have a statute of limitations of two years *plus automatic tolling while a related administrative charge is pending*.²

¹ *Cosgrove v. Williamsburg of Cincinnati Mgt. Co.*, 70 Ohio St.3d 281, 284–85, 638 N.E.2d 991 (1994).

² Ohio Rev. Code § 4112.052(C).

Here, Williams’s dual-filed charge against Barton Malow—which, by statute, exhausted administrative remedies against both Barton Malow and the individual defendants³—tolled the statute of limitations from August 6, 2019 (filing of the charge) to August 21, 2020 (closing of the charge), a period of 382 days. After accounting for tolling, only 426 days—i.e. less than two years—passed between Williams’s termination and her motion for leave to amend her complaint.

Date: November 23, 2021

Respectfully submitted,

/s/ Patrick Haney

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³ See Ohio Rev. Code § 4112.052(B)(4)(b).